

STATE OF CONNECTICUT

Regulation of Environmental Protection

Section 19-508-12. Violations and enforcement

- (a) No person shall violate or cause the violation of any applicable regulation.
- (b) Remedies for violations.
 - (1) The Commissioner shall designate employees of DEP to be known as enforcement personnel, who shall, acting with or without complaints, conduct investigations and ascertain whether the Commissioner's regulations are being complied with.
 - (2) Whenever the enforcement personnel determine that any regulation promulgated by the Commissioner has been violated or there has been a failure to comply therewith, they shall make and serve upon the person or persons responsible for the violations or failure a written order specifying the nature of the violation or failure and affording a reasonable period of time for its correction or remedying.
 - (3) Prior to the issuance of such order, the enforcement personnel shall make reasonable effort in the light of all circumstances to correct the violation or failure of compliance by conference, conciliation and persuasion, as required by statute.
 - (4) Unless the person or persons against whom an order has been served files a written answer thereto with the Commissioner, within thirty (30) days after the date of service of the order, and requests a hearing thereon, such order shall become final and effective. The answer shall contain a clear and concise statement of the reason or reasons, if any, that the order is claimed to be invalid or insufficient and/or the manner in which the persons filing the answer deem themselves aggrieved by the order. Upon receipt of the answer and request for a hearing, the Commissioner shall schedule the hearing as soon thereafter as is practical before himself or a designated hearing officer to act in his place and stead. The person designated to act as hearing officer shall not have participated in any way in the investigation or other preliminary proceedings preceding the issuance of the order specifying the violation. The hearing shall be open to the public and shall be conducted in the manner provided by statute, to wit: Testimony shall be under oath and recorded stenographically or by a sound-recording device, but strict rules of evidence of court of law shall not be binding on the hearing officer. True copies of the transcript and of any other record made

by or at such hearing shall be furnished a party or any other person requesting them at his own expense. During the course of a hearing, the hearing officer may take appropriate measures to preserve the confidentiality of trade secrets.

- (5) Any person who receives a notice that permits has been denied, revoked or modified, or only conditionally approved may deem the notice a written order of violation under subsection (b)(2) and file a written answer and request for a hearing under subsection (b)(4).
- (6) At the conclusion of a hearing held under subsection (b)(4) of (b)(5) and after reviewing the hearing record and the recommendation and report of the hearing officer, if any, the Commissioner shall determine whether the person or persons against whom such order has been issued is violating any regulation of the Commissioner, or has failed to comply with a proper requirement, order, notice, ruling or directive duly issued, or has improperly had a permit denied, revoked, or modified, or conditionally approved and shall affirm, modify, reverse or revoke the order, notice or other action complained of as he shall in his discretion determine, and shall so notify such person or persons by certified mail. Any information as to secret processes or methods shall be kept confidential.
- (c) Any person who violates an order of the Commissioner shall be liable for a civil penalty not to exceed five thousand dollars (\$5,000) per week commencing the 10th day after expiration of the time fixed for the taking of preventive or corrective measures, although the Commissioner in his discretion may waive such accrual in whole or in part. The penalty may be collected in a civil action in the manner provided by statute. In addition, the Commissioner may institute a civil action in any court of competent jurisdiction for injunctive relief to prevent any further violations of an order.
- (d) Emergencies.
- (d) (1) Notwithstanding any other provision of these regulations, if the Commissioner determines that an air pollution emergency exists caused by adverse meteorological conditions, such as an inversion or a stagnant high pressure system, which requires immediate action to protect public health or safety, he may order any person emitting or responsible for the emission of air pollutants or contaminants creating or contributing to the emergency, to reduce or discontinue such actions immediately. Upon the issuance of such order, the Commissioner shall fix a place and time, not later than forty-eight hours thereafter, for a hearing to be held before him or a hearing officer designated by him. Not more than twenty-four hours after the conclusion of such hearing, and without adjournment thereof, the Commissioner shall affirm, modify or set aside his order. Nothing contained in this regulation shall be deemed a waiver of the Commissioner's

powers to seek immediate injunctive relief in the courts against a person responsible for emission of pollutants in an emergency.

- (d) (2) Any person who violates an order issued during and/or related to an air pollution emergency shall be liable for a civil penalty of five thousand dollars (\$5,000) per week commencing with the date of notice to such person of issuance of the order.
- (e) Criminal liability.

Any person who files any statement, record or report with the Commissioner containing false or misleading information or other claim shall be subject to criminal prosecution for a Class A misdemeanor punishable by imprisonment for a period of up to one year and a fine of up to one thousand dollars (\$1,000) for each violation.